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Special report of the Secretary-General on Ethiopia and Eritrea

I. Introduction

1. The present report is submitted pursuant to paragraph 8 of Security Council resolution 1710 (2006) of 29 September 2006, in which the Council expressed its intention to review progress towards demarcation of the border between Eritrea and Ethiopia and requested me to present updated options for possible changes to the mandate of the United Nations Mission in Ethiopia and Eritrea (UNMEE).

II. Recent developments in the Temporary Security Zone and adjacent areas

2. Since my report of 19 September 2006 (S/2006/749), the security situation in and around the Temporary Security Zone has deteriorated further. On 16 October, in the most serious violation of the integrity of the Zone, approximately 400 armed soldiers of the Eritrean Defence Forces (EDF), along with military vehicles, six main battle tanks mounted on tank transporters and one anti-aircraft gun, entered Kerkesha in Sector West, inside the Zone. At the same time, approximately 1,000 armed Eritrean troops, with artillery guns and rocket-propelled grenades and 10 main battle tanks mounted on tank transporters, forcefully passed the UNMEE checkpoint at Maileba, heading towards Om Hajer, which is located in Sector West, inside the Zone. During the incursion, the Maileba checkpoint, which was manned by UNMEE troops from the Jordanian battalion, was temporarily taken over by armed Eritrean militia. According to information available to UNMEE, in the following two weeks, Eritrea sent approximately 745 additional troops into Sector West, inside the Zone. Since these incursions, armed Eritrean personnel have stopped all movement of UNMEE patrols in the affected areas, further limiting the already restricted monitoring capacity of the Mission.

3. On 16 October, I issued a statement that the incursion constituted a major breach of the ceasefire and the integrity of the Temporary Security Zone, and warned that it could seriously jeopardize the peace process and undermine the Agreement on Cessation of Hostilities between Eritrea and Ethiopia, signed in Algiers on 18 June 2000, which would have serious consequences for the whole region. I also urged the Government of Eritrea to withdraw its troops from the Zone immediately and to cooperate with the United Nations in restoring the ceasefire arrangements. UNMEE also sought an urgent meeting with the Eritrean authorities

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to protest this grave violation of the Algiers Agreement between Eritrea and Ethiopia.

4. While some Eritrean troops and militia have been observed withdrawing or temporarily moving out of the Zone in Sector West, UNMEE estimates that at least some 2,000 Eritrean troops, with heavy weapons, remain inside the Zone, comprising about five infantry battalions, a squadron of main battle tanks, a battery of ZSU 23 anti-aircraft guns, a troop of type 63 anti-aircraft guns and a troop of multi-barrel rocket launchers.

5. The Minister of Information of Eritrea and the Acting Commissioner for coordination with the Mission informed UNMEE that the troops were moved into the Zone to "help harvest crops" from state-owned farms in the area. The Acting Commissioner also stated that the troop movements were "a natural decision" citing the presence of development projects in the area.

6. For its part, Ethiopia condemned the incursion as a provocation and a flagrant violation of the Algiers Agreement. So far, UNMEE has not reported any unusual troop movement on the Ethiopian side of the Zone, except for a redeployment of about 20 D-30 artillery guns in the adjacent area, near Humera, in Sector West.

7. On 21 October, in an unfortunate shooting incident, an UNMEE sentry fired at a group of unidentified Eritrean civilians who had forcibly entered an UNMEE camp in Barentu, in Sector West. One of the intruders later died in a local hospital. Immediately, UNMEE instituted a board of inquiry to investigate this tragic incident. It is expected that the board will conclude its investigation upon receipt of the relevant documentation from the local Eritrean authorities.

8. On 14 November, two low-intensity blasts occurred in two hotels in Humera, in Sector West, in Ethiopia. One of the hotels accommodates the office and personnel of the UNMEE Humera team site. There was no injury to UNMEE staff and no damage to UNMEE property. Based on information gathered so far, there is no indication that UNMEE was specifically targeted.

Eritrean restrictions and their impact on the Mission

9. Despite the protests of the Security Council and UNMEE, all the restrictions imposed on the Mission by Eritrea, which were listed in my previous reports, remain in place. The ban on United Nations helicopter flights, which was imposed in October 2005, remains of particular concern to UNMEE and its troop-contributing countries, as it deprives the Mission of crucial capacity to carry out vital aerial medical evacuation. As part of ongoing efforts to address this issue, UNMEE has upgraded its level-I hospitals in Barentu in Eritrea, and Adigrat in Ethiopia, both of which now have surgical capability.

10. Eritrea has also instituted further measures that impede the ability of UNMEE to perform its mandated tasks. On 14 September, the Eritrean authorities informed UNMEE that the Mission would be allowed to purchase only 200,000 litres of diesel fuel per month, even though the Mission consumes some 340,000 litres on a monthly basis. Since that limit was imposed, the Mission has received only 151,000 litres of fuel in October and 154,000 litres in November. In addition, the Eritrean authorities have turned down the Mission's request to import diesel fuel directly. The limited availability of fuel has severely restricted the operations of the Mission, including the provision of power to United Nations personnel in the field. As a

result, UNMEE has introduced austerity measures to conserve fuel and maintain a minimum level of operations.

11. On 1 November, the Eritrean authorities informed the United Nations that Eritrea did not recognize the appointment of Azouz Ennifar as the Acting Special Representative, even though Mr. Ennifar had been appointed in that capacity since 11 August 2006. Notwithstanding the clarifications provided by the Secretariat, the Government of Eritrea insisted that Mr. Ennifar could no longer stay or enter the country as an UNMEE official. As a result, on 11 November, Mr. Ennifar relocated to Addis Ababa. In the meantime, my Deputy Special Representative, Lebohang Moleko, acts as the Mission's focal point for relations with the Eritrean authorities in Asmara. However, senior officials of UNMEE have been told by Eritrean officials that, since Eritrea does not recognize Mr. Ennifar, the Mission's leadership would risk revocation of their visas if they attended functions in Addis Ababa convened by him. In addition, on 29 November, Eritrean authorities advised UNMEE that Mr. Ennifar should not be maintained as the Head of the Mission and should not decide on operational issues related to the border question, regardless of his location.

12. On 6 November, the Government of Eritrea notified UNMEE that, owing to "the threat of bird flu", it had banned the importation and prohibited any supplies of poultry or poultry products intended for consumption by the peacekeeping Mission in Eritrea. Despite the explanation by UNMEE that poultry consumed by its personnel was imported from countries not affected by avian flu, the Government of Eritrea has not reversed that decision. This has caused serious concern among the Mission's troop-contributors, as poultry products constitute a major food item for their personnel.

Military Coordination Commission

13. The 38th meeting of the Military Coordination Commission, which was scheduled for mid-September, could not be held as planned owing to the conflicting schedules of the parties. A proposed meeting for early November also failed to materialize, as Ethiopia requested a postponement, on the grounds of the Eritrean incursion into the Temporary Security Zone. On 8 November, Eritrea informed UNMEE that it had suspended its participation in the Commission until Ethiopia provided an explanation for its request to postpone the meeting, as it considered that request to be a withdrawal from the Agreement on Cessation of Hostilities. UNMEE is currently engaging the parties with a view to securing agreement on a new date and venue for the next meeting.

Eritrea-Ethiopia Boundary Commission

14. In a letter dated 9 November, the President of the Eritrea-Ethiopia Boundary Commission informed me that he intended to convene a meeting with both Governments on 20 November in The Hague to discuss a proposal to demarcate the border between Eritrea and Ethiopia by coordinates, which would obviate the need to place boundary pillars on the ground. The Boundary Commission also invited the Witnesses to the Algiers Agreement to the meeting. The Boundary Commission advised that it felt compelled to proceed in this manner because of the persistent lack of cooperation by the parties, neither of which has granted the Commission access to the border area to erect boundary pillars on the ground, which would

complete the demarcation process. The Commission's proposal involves image-processing and terrain-modelling "to demarcate the course of the boundary by identifying the location of turning points (or boundary points) by both grid and geographical coordinates with a degree of accuracy that does not differ significantly from pillar site assessment and emplacement undertaken in the field".

15. Ethiopia protested strongly against the Boundary Commission's proposals and called for the meeting to be cancelled, arguing that demarcation by coordinates would be legally invalid. Eritrea also protested the Commission's notion of derogating the physical demarcation to the parties. Neither of the two parties sent representatives to the meeting in The Hague.

16. The Boundary Commission nevertheless met in The Hague on 20 November, in the presence of the Witnesses, including a United Nations delegation headed by the Assistant Secretary-General for Peacekeeping Operations. The Boundary Commission explained how it had reached the decision to demarcate the boundary by coordinates and invited the Witnesses to express their views on the proposal. At the conclusion of the meeting, the Commission informed the participants that it would issue a formal statement on the issue.

17. On 27 November, the Boundary Commission announced (see enclosure) that the most practical way that it could advance performance of its mandate was to provide the parties with the list of boundary points that the Commission had identified using the techniques referred to in paragraph 14.

18. In this regard, the Commission stated the following:

> "In these circumstances, the Commission considers that the most practical way in which it can advance performance of its mandate is to provide the Parties with the list of boundary points that the Commission has identified by the techniques just mentioned along the whole length of the boundary. This list represents the locations at which, if the Commission were so enabled by the Parties, it would construct permanent pillars. This list and some explanatory comments are annexed to this Statement which is also accompanied by forty-five maps illustrating the boundary points. It may be noted that the boundary so illustrated does not differ significantly from the boundary identified in the Delimitation Decision. The areas of Tserona and Zalambessa have been clarified, as contemplated in the Delimitation Decision, by determining the environs of those two places and taking into account, insofar as relevant, manifest impracticabilities. As the Commission evidently cannot remain in existence indefinitely, it proposes that the Parties should, over the next twelve months, terminating at the end of November 2007, consider their positions and seek to reach agreement on the emplacement of pillars. If, by the end of that period, the Parties have not by themselves reached the necessary agreement and proceeded significantly to implement it, or have not requested and enabled the Commission to resume its activity, the Commission hereby determines that the boundary will automatically stand as demarcated by the boundary points listed in the Annex hereto and that the mandate of the Commission can then be regarded as fulfilled. Until that time, however, it must be emphasised that the Commission remains in existence and its mandate to demarcate has not been discharged. Until such time as the boundary is finally demarcated, the Delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary."

19. I urge the parties to take advantage of this period and cooperate with the Commission to expeditiously implement the demarcation of the border.

Mine action

20. On 8 November 2006, an UNMEE mine action vehicle with two UNMEE personnel on board hit a suspected anti-tank mine on the road between Tsorena and Senafe, in Sector Centre. The two UNMEE personnel, who sustained serious injuries, were treated in the United Nations hospital and subsequently evacuated to their home countries for further medical attention. They are reported to be in stable condition. Preliminary investigations indicate that this incident was caused by a newly laid mine.

21. The UNMEE Mine Action Coordination Centre conducted a detailed assessment following the incursion and concluded that, as long as the security status in the Temporary Security Zone remained at phase IV, it would be able to carry out route clearance and other demining tasks, in accordance with the Algiers Agreement and the relevant Security Council resolutions.

III. Options for possible changes to the mandate of the Mission

22. The prevailing unstable, tense and volatile situation in the Temporary Security Zone is due to an accumulation of unresolved issues, in particular, the stalemated demarcation process. This stalemate emanates from Ethiopia's refusal to accept, without preconditions, the delimitation decision of 2002 of the Eritrea-Ethiopia Boundary Commission. The latest actions by the Government of Eritrea, in particular the massive movement of its troops into the Zone, have severely compromised the Algiers Agreement and undermined the Mission's capacity to implement its monitoring mandate, as requested by the parties in the Agreement. At the same time, there is no sign of Eritrea's inclination to lift the many unacceptable restrictions it has imposed on the Mission's operations over the last few years.

23. In the circumstances, maintaining the status quo in the Mission's configuration would not be an option. I would therefore propose that the Security Council consider the options described below for possible changes to the mandate of UNMEE, as requested in resolution 1710 (2006).

Option I

24. The first option would consist of a reduction in the UNMEE military strength from the current 2,300 to 1,700 military personnel (including 1,430 troops and support elements and 230 military observers). This option would allow the present observation capability to be maintained while reducing the overall strength. There would be a reduced presence of contingents in all static check posts at key and sensitive points of entry into and exit from the Temporary Security Zone, while United Nations military observers would carry out patrolling tasks. The range of monitoring patrols and challenge inspections would also be limited to correspond with the considerably reduced capacity of the Mission to perform its tasks.

25. The Mission would maintain its presence inside the Temporary Security Zone and in the adjacent areas, at the following locations: Badme, Barentu, Humera, Inda Shilase, Maileba/Om Hajer, Shilalo and Shiraro (in Sector West); Adi Abun,

Adigrat, Mai Aini, Mendefera and Senafe (in Sector Centre); and Assab and Bure (in sub-Sector East). This option would allow UNMEE to maintain its presence inside the Temporary Security Zone.

Option II

26. Under the second option, UNMEE would maintain a military strength of 1,700 personnel, including 230 military observers, and the same operational concept as in the previous option. However, the entire UNMEE Force headquarters and units integral to it (including the military police and the guard and the administrative company) would be relocated from Asmara to the Ethiopian side, leaving only a small liaison office in Asmara. In addition, some military units, including the level-II hospital, would be relocated to adjacent areas south of the Temporary Security Zone. United Nations troops currently stationed in the Zone would remain in place, if allowed to operate by the Eritrean authority. However, this option would require increased cross-border activity by the Mission, which would be dependent on the full cooperation of Eritrea and Ethiopia and could entail serious logistical and operational challenges.

27. If UNMEE is to maintain an office in Asmara and to be present inside the Temporary Security Zone, Eritrea's cooperation would be indispensable. UNMEE would also need to be given freedom of movement to carry out patrols from team sites and the nine contingent posts located in Ethiopia. In addition, this option would require the consent of Ethiopia to redeploy most of the Mission's resources south of the Zone.

Option III

28. The third option would be to transform UNMEE into an observer mission supported by a smaller military protection force. This would imply reducing the strength of the Force from the current 2,300 to 800 personnel (160 military observers and 640 troops, including support elements). This option would entail the removal of all permanent observer team sites and contingent posts from inside the Temporary Security Zone. The main task of the military observers would be to focus on limited permanent monitoring of the Zone from deployment sites located outside it. Subject to the cooperation of the parties, the military observers would undertake periodic patrols and challenge inspections inside the Zone. The focus would continue to be on the major access routes.

29. Under this option, observer team sites would be supported by six contingent posts that would provide the military observers with protection, as well as administrative and logistic support. The proposed six locations would include three posts at Barentu, Humera and Maileba, in Sector West; two posts at Adigrat and Asmara, in Sector Centre; and one post at Assab, in sub-Sector East. The range of monitoring patrols and challenge inspections would be reduced to ensure that United Nations staff members were not unnecessarily placed at risk beyond the capacity of the Mission's response elements. The effectiveness of this arrangement would depend on the full cooperation of the parties. If, however, one party would refuse to cooperate with the United Nations or impose restrictions on its activities, under this arrangement, the observer mission would operate only from one side.

Option IV

30. Under the fourth option, UNMEE would be converted into a small liaison mission maintaining offices in Addis Ababa and Asmara. The main task would be to maintain liaison with the political and military leadership of the parties.

31. This option would entail the deployment of some 30-40 military liaison officers with adequate civilian contracted aviation support. These military officers, together with political liaison officers, would be deployed in each capital. Forward liaison posts could also be established in both countries. As in any option involving United Nations deployment in Eritrea, even a small mission could continue to face severe operational restrictions undermining its effectiveness. In addition, this would provide only a very limited assessment capacity of the situation on the ground.

IV. Observations

32. It has been more than six years since UNMEE was established by the Security Council by its resolution 1320 (2000) of 15 September 2000 and more than five years since the Temporary Security Zone was formally set up in April 2001. On 13 April 2002, the Eritrea-Ethiopia Boundary Commission rendered its delimitation decision and its mandate required the Boundary Commission to proceed to the expeditious and full demarcation of the border. At that time, the commitment to the peace process that had been demonstrated by the parties gave hope for a definitive resolution of their border dispute within a relatively short period of time. Cooperation by the parties with the Commission was not only assumed, but indeed essential to the implementation of the delimitation decision. However, cooperation has progressively waned since 2003, when Ethiopia, in response to the Commission's decision, emphasized "the necessity of conducting the demarcation in a manner that takes into account the human and physical geography through the study of facts on the ground". With respect to Eritrea, cooperation began to deteriorate as harsh, humiliating impediments were placed on the work of UNMEE and its staff. This also affected the Boundary Commission's work on the ground.

33. Despite the engagement and efforts of the international community, the parties have demonstrated no political will for compromise. The two countries have also failed to fully implement Security Council resolution 1640 (2005), which offered yet another opportunity for them to break the dangerous stalemate in the peace process.

34. It should be emphasized that Ethiopia's refusal to implement the Boundary Commission's award fully, and without precondition, is contrary to widely accepted principles of international law. At the same time, as a result of the absence of dialogue between the parties, their failure to cooperate with the Commission, Eritrea's refusal to avail itself of recent diplomatic initiatives and the massive incursion of Eritrean troops into the Temporary Security Zone, tension on the ground has remained very high. The imposition of a long and deliberately humiliating list of restrictions by Eritrea on the operations of UNMEE have called into question the continued relevance of the Mission and have exacerbated the tension in the border area.

35. At the same time, the combined effect of the crippling Eritrean restrictions presents a serious challenge to several core principles of United Nations

peacekeeping, in particular the safety of its personnel, the need for freedom of movement, the exclusively international character of the personnel working under the flag of the Organization and the prerogative of the Secretary-General to appoint the required staff. UNMEE has had to operate under unacceptable conditions for far too long, and I fear that, were this to be allowed to continue, it could indeed have very serious implications for the wider concept of peacekeeping.

36. In the present very precarious circumstances, UNMEE can regrettably ensure only a very limited observation of the security arrangements in the Temporary Security Zone and other commitments that the parties undertook in the Algiers Agreement. UNMEE can observe no more than 40 per cent of the Zone and the Mission is no longer in a position to monitor the Eritrean forces in their redeployed positions. Furthermore, given the parties' lack of cooperation with the Boundary Commission, prospects for the capacity of UNMEE to assist the Commission in the implementation of its delimitation decision remain problematic.

37. At the same time, despite the deliberately negative attitude towards the United Nations operation and individual peacekeepers, the presence of these brave men and women and their determination to serve the cause of peace remain a political, operational and psychological obstacle to a precipitous action that could result from the current situation where the two armies are already directly facing each other, without a separation zone. This factor remains an impediment for those who would want the situation to escalate even further, with possible consequences for both countries and the overall security in the region. Despite its reduced relevance, the presence of UNMEE can still help to some extent to reduce the risk of the conflict inadvertently flaring up again. I trust that the Security Council will keep this consideration in mind as it takes a decision on the future of the Mission.

38. In this context, I welcome the decision taken by the Eritrea-Ethiopia Boundary Commission on 27 November, which will give the parties an additional 12 months, terminating at the end of November 2007, to reflect on their respective positions and to try to reach the necessary agreement on the emplacement of the boundary pillars. This important decision of the Boundary Commission should also be taken into account in considering the possible options for the future of the Mission. In view of the above, the Security Council may wish to authorize the implementation of option I. If, however, there is no progress in the coming months towards the carrying out of the Commission's recommendation, the Council could then consider converting the United Nations operation into an observer or liaison mission.

39. In conclusion, I wish to express my gratitude to my Acting Special Representative, Azouz Ennifar, and to the UNMEE civilian and military personnel for their continued commitment and hard work, under very difficult and increasingly inhospitable and even dangerous conditions. I would also like to thank all the Mission's partners, including the United Nations country teams and humanitarian agencies, the Member States involved, the African Union and other international organizations for the support they continue to render to this peace process.

Enclosure

ERITREA-ETHIOPIA BOUNDARY COMMISSION

STATEMENT BY THE COMMISSION

1. This Statement is issued by the Eritrea-Ethiopia Boundary Commission ("the Commission") following its meeting in private session in The Hague on 20 November 2006 to consider the further procedures to be followed in connection with the demarcation of the boundary between Eritrea and Ethiopia. Invitations to the Parties were issued by e-mail on 8 November 2006. Both Parties declined the Commission's invitation. Part of the meeting was attended by representatives of the following Witnesses to the Algiers Agreement of 12 December 2000: the Secretary-General of the United Nations, the European Union, the United States of America and the People's Democratic Republic of Algeria.

2. By the Algiers Agreement, the Parties established the Commission to delimit and demarcate the border between them on the basis of the pertinent colonial treaties and applicable international law. The Parties stipulated that "the delimitation and demarcation determinations of the Commission shall be final and binding" and agreed that "each Party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other Party".

3. The Parties evidently considered the completion of the task of delimitation as urgent, because they provided in Article 4(12) of the Agreement that the delimitation should be completed within six months of the first meeting of the Commission. The Commission recognised that a similar sense of urgency attached to the demarcation process; Article 4(13) of the Algiers Agreement called upon the Commission to arrange for "expeditious demarcation". The terms of the Algiers Agreement, and its object and purpose, preclude leaving the boundary undemarcated for a prolonged period or indefinitely.[1]

4. The constitution of the Commission was completed on 20 February 2001 and the Commission immediately entered upon its task. After the receipt and study of substantial written pleadings, and having heard the oral arguments of the Parties, the Commission delivered the Delimitation Decision of 13 April 2002. This identified the principal features of the boundary line, accompanied by a list of coordinates identifying the points through which the boundary runs. When the Delimitation Decision was rendered, both Parties promptly announced their acceptance of it. Thereupon, the Commission undertook the steps necessary to initiate the process of demarcation.

[1] The Commission recalls the observation of the Court of Arbitration in the *Beagle Channel* case – albeit in a somewhat different context: "It is not admissible that, because of the total non-cooperation of one of the Parties, contrary to its obligation under a valid Award, the Court should be compelled to remain indefinitely in existence in a state of suspended animation". (See 52 *International Law Reports* 284.) The present case is not one involving the total non-cooperation of one Party, but rather the non-cooperation of both Parties, though in differing ways and degrees. Thus, the observation of the *Beagle Channel* tribunal applies *a fortiori*.

5. On 8 July 2002, in accordance with Article 30(1) of its Rules of Procedure, the Commission promulgated the Demarcation Directions. These were revised in November 2002 and in March and July 2003. In implementation of their obligations under these Directions, the Parties appointed Liaison Representatives and Field Liaison Officers to facilitate the participation by each Party in identifying sites for the emplacement of boundary pillars. The Commission established its Field Offices in Asmara and Addis Ababa in November 2001 and in Adigrat in July 2002. It also appointed a Chief Surveyor in October 2001 and a Special Consultant in May 2002 to provide technical advice and assistance to the Commission. The Chief Surveyor took up residence in Asmara on 15 November 2001. Surveying staff were recruited to assist him.

6. Initially, it was envisaged by the Commission, as reflected in the Demarcation Directions of 8 July 2002, that the task of demarcation would entail the emplacement of pillars as markers of the line of the boundary specified in the Delimitation Decision. On this basis, the Demarcation Instructions were issued on 21 March and 22 August 2003. Steps were taken towards the negotiation of contracts for the construction and emplacement of pillars.

7. On 24 January 2003, in response to a request by the Commission for comments on the draft 1:25,000 maps, Ethiopia filed a memorandum setting out at length its views on the process of demarcation. It emphasised the necessity of conducting the demarcation in a manner that takes into consideration the human and physical geography through the study of the facts on the ground.[2] It contended that, in the process of demarcation, alterations or adjustments of the delimited boundary should be made so as principally to eliminate those situations in which villages were divided or roads were cut by the boundary. The Commission later ruled that most of these contentions were inadmissible. Eritrea, for its part, insisted that the line described in the Delimitation Decision should be applied without any change. In paragraph 20 of the "Observations" which the Commission conveyed to the Parties on 21 March 2003, the Commission stated its view that, in the absence of express authorisation by the Parties, it lacked the authority to vary the delimited boundary line except in cases of "manifest impracticability". It also indicated that the description of certain parts of the boundary in the Dispositif of the Delimitation Decision would need to be completed when, as foreseen in that Decision, the Commission had received necessary information from the Special Consultant and the Chief Surveyor, in particular in relation to Tserona, Zalambessa and Bure.

8. On the basis of the colonial treaties, the application of which was prescribed in the Algiers Agreement, the demarcation of the boundary was approached in three sectors (Western, Central and Eastern), as had been the delimitation. Demarcation began in the Eastern Sector in March 2003 and the location of pillars was established through field assessment with the cooperation of both Parties by August 2003. A set of marked maps showing proposed boundary pillar sites in this Sector was sent to the Parties for comment. Eritrea accepted these

[2] Submission by the Federal Democratic Republic of Ethiopia, 24 January 2003, Comments Pursuant to the December 2000 Agreement, the Commission's Rules of Procedure, the Commission's Demarcation Directions and Instructions provided at the Boundary Commission's Meeting on 6 and 7 November 2002, p. 61-74.

marked maps of the Eastern Sector but Ethiopia did not respond. As the failure of a Party to participate could not prevent the Commission from performing its function, after the expiry of the period which the Commission gave to the Parties for comment on these maps the Commission adopted specific boundary points that could serve as locations for the emplacement of pillars in that Sector. These locations extended from the Djibouti border in the east to the Salt Lake in the north-west. Some of these locations departed from the boundary line as prescribed in the Delimitation Decision. The possibility of such variation was foreseen in the 1908 Treaty relating to the Eastern Sector (alone among the three treaties with such a permissive provision) and was necessary in view of the exceptional nature of the terrain. Despite these variations, each Party still ended up in effect with the same amount of territory as had been awarded to it by the Delimitation Decision.

9. The Commission encountered difficulties that were posed by the Parties when it was about to commence demarcation in the Central and Western Sectors. Although Ethiopia agreed that the Commission could continue with pillar emplacement in the Eastern Sector, it was not prepared to allow demarcation to begin in the Central and Western Sectors. Eritrea would not agree to pillar emplacement in the Eastern Sector unless demarcation work was begun simultaneously in the Central and Western Sectors.

10. More particularly, the obstacles from the Ethiopian side took various forms: prohibiting field-work within the territory under its control, thus impeding the survey of ground control points for the aerial photography and the secondary datum survey (April to July 2002); filing extensive comments on the Delimitation Decision, amounting to an attempt to reopen elements of the substance of that Decision, instead of limiting itself to the requested comments on the draft 1:25,000 maps (January 2003); alleging that the Field Liaison Officers appointed by Eritrea were intelligence officers and refusing to allow field work to continue in Ethiopian territory, then failing to appoint ad hoc Field Liaison Officers within the prescribed time limit following the Commission's Order of 9 February 2003 so as to allow field work to resume without further delay (January to February 2003); failing to appoint new Field Liaison Officers for the remaining demarcation activities following the Commission's Decision pursuant to Article 15B of the Demarcation Directions (July 2003 to March 2006); failing to provide assurances for the security of all demarcation personnel (August 2003 to the present); failing to comment on maps which indicated the pillar locations in the Eastern Sector (September 2003); repeatedly refusing to authorise necessary flight requests lodged by the Chief Surveyor; eventually limiting the Commission's field work to the Eastern Sector by statements that the ad hoc Field Liaison Officers would only be permitted to operate in the Eastern Sector; complaining to the Secretary-General of the United Nations of what Ethiopia termed "illegal, unjust and irresponsible decisions" of the Commission in respect of Badme and parts of the Central Sector, and proposing that the Security Council set up an alternative mechanism to demarcate the parts of the boundary it contested (September 2003); denouncing in that same letter the Commission's Delimitation Decision by stating that it would only recognise the southern boundary of the Temporary Security Zone ("TSZ") as the international boundary; failing to provide assurances for the security of the contractors selected for the emplacement and as-built survey of the boundary pillars (September to October 2003); rejecting the

Commission's invitation to attend a meeting on 5 November 2003, claiming that the notice was too short and that there was no likelihood of anything being achieved (October 2003); refusing to permit any work to be carried out by the Commission's field staff in the Western and Central Sectors until the boundary in the Eastern Sector had been demarcated and subject to Ethiopia's approval of the Commission's method of demarcation (November 2003); failing to make prompt payment of its share of the Commission's expenses (February 2004 to February 2005); rejecting the Commission's invitation to a meeting to be held on 22 February 2005 on the ground that the meeting was premature, would be unproductive and could have an adverse impact on the demarcation process, as a result of which the Commission was obliged to cancel the meeting (February 2005); failing again to meet its financial obligations (May 2006 to the present); introducing qualifications to its previously unqualified acceptance of the final and binding quality of the Delimitation Decision (17 May 2006); failing to respond to the Commission's request for assurances of freedom of movement and security for its staff travelling to the region to reopen the Commission's Field Offices (July to August 2006); and failing to respond to the Commission's invitation to a rescheduled meeting on 24 August 2006.

11. After initial cooperation, Eritrea also began to raise obstacles. In October 2003, it informed the Chief Surveyor that it would withdraw its arrangements for the provision of security in the Eastern Sector if the contract then under negotiation for the emplacement of pillars did not cover the entire boundary as determined in the Delimitation Decision; it repeated its position at the meeting of the Commission on 19 November 2003, objecting to the continuance of demarcation in the Eastern Sector unless at the same time the work foreseen in the Western and Central Sector would continue concurrently; it impeded in a number of ways the ability of the United Nations Mission in Ethiopia and Eritrea ("UNMEE") to provide necessary assistance to the Commission's staff in the field; its conduct in October 2005 occasioned a reference in Security Council resolution 1640 to Eritrea's restriction of "all types of UNMEE helicopter flights within Eritrean airspace or coming to Eritrea, effective as of 5 October 2005, and the additional restrictions on UNMEE's freedom of movement imposed since then, which have serious implications for UNMEE's ability to carry out its mandate. . ."; on 6 December 2005, Eritrea sent a letter to UNMEE requesting members of UNMEE who were nationals of the United States of America, Canada and Europe, as well as the Russian Federation, to leave the country within ten days, a measure which occasioned a condemnatory statement by the President of the Security Council. In December 2005, the Security Council was led to relocate military and civilian staff of UNMEE from Eritrea to Ethiopia "solely in the interests of the safety and security of UNMEE staff. The lack of cooperation with UNMEE by the Eritrean authorities has produced conditions on the ground which prevent UNMEE implementing its mandate satisfactorily". (Statement by the President of the Security Council, 14 December 2005). This mandate included the provision of necessary assistance to the Commission's staff on the ground; in the Spring of 2006, Eritrea imposed far-reaching restrictions on UNMEE that had the effect of seriously impeding the resumption of operations by the Commission's field staff; it rejected the Commission's invitation to attend a meeting on 15 June 2006; instead, it sent a letter to the Commission stating that it was not prepared to continue its engagement, implying that the demarcation process was biased in favour of Ethiopia; in July 2006, it refused visas to the Commission's field staff who had been instructed to return to

Eritrea to reopen the Field Office there. Like Ethiopia, Eritrea did not respond to the Commission's request for it to attend a meeting on 24 August 2006. The foregoing course of conduct has, regrettably, also contributed significantly to the present impasse.

12. These difficulties have persisted, notwithstanding that the Commission has held meetings with the Parties on several occasions with a view to securing their agreement to the renewal of the field work in the demarcation process. The most recent meetings of the Commission with the Parties were held on 10 March 2006 and 17 May 2006. The 15 June 2006 meeting was cancelled due to Eritrea's refusal to attend. The Parties were invited to a meeting to have been held on 24 August 2006 and the Parties' replies to the invitation were requested by 10 August. No replies were forthcoming and attempts to contact the Parties by the Registrar of the Commission elicited no responses. In the meantime, the Commission had decided to reopen the Field Offices after obtaining the Parties' agreement at the 10 March 2006 meeting. These offices had been operating with a reduced staff since January 2004 and were eventually closed on 31 March 2005. However, when the Deputy Secretary of the Commission was dispatched to Addis Ababa in early August 2006 with a view to introducing the newly recruited Field Office staff to the local officials, she was unable to gain access to any relevant Ethiopian officials. The Commission had also instructed her to proceed to Eritrea, but she was advised by the Eritrean authorities not to attempt to enter Eritrea. It thus proved impossible to implement the Commission's decision to reopen all the Field Offices or reactivate the demarcation process as originally contemplated.

13. These developments, including the problems confronting the Commission as a result of the attitudes of the Parties, have all been reported to the Secretary-General of the United Nations at three-monthly intervals and have been passed on by him to the Security Council. The Security Council has on no less than fourteen occasions called upon the Parties to meet their obligations but has achieved no more success than the Commission.[3]

14. The frustration of the demarcation process as originally conceived has continued for nearly four years. There is no present sign that the Parties will change their positions in the reasonably proximate future. The United Nations Security Council by resolution 1710 called on the Parties to "cooperate fully with the EEBC" and "to implement completely and without further delay or preconditions the decision of the EEBC and to take concrete steps to resume the demarcation process". The Security Council specifically demanded that "Eritrea reverse, without further delay or preconditions, all restrictions on UNMEE's movement and operations" and that Ethiopia "accept fully and without delay the final and binding decision of the Eritrea-Ethiopia Boundary Commission and take immediately concrete steps to enable, without preconditions, the Commission to demarcate the border completely and promptly." The Commission, on 6 October 2006, wrote to the Parties asking them what steps they

[3] S/RES/1398 (15 March 2002), S/RES/1430 (14 August 2002), S/RES/1466 (14 March 2003), S/RES/1507 (12 September 2003), S/RES/1531 (12 March 2004), S/RES/1560 (14 September 2004), S/RES/1586 (14 March 2005), S/RES/1622 (13 September 2005), S/RES/1640 (23 November 2005), S/RES/ 1661 (14 March 2006), S/RES/ 1670 (13 April 2006), S/RES/1678 (15 May 2006), S/RES/1681 (31 May 2006 and S/RES/1710 (29 September 2006).

intended to take to implement the foregoing requests of the Security Council. The Commission asked for replies by 22 October 2006. Eritrea replied on 22 October reiterating the position that it had previously taken to the effect that no progress could be made until Ethiopia stated without qualification that it accepted the boundary as determined by the Commission in its Decision of 13 April 2002. As yet, Ethiopia has not replied to that request. Both Parties declined to attend the meeting of the Commission called for 20 November 2006.

15. The present situation is, therefore, that, in the Eastern Sector, the boundary points for the pillar emplacements have been established but no pillars have been emplaced; in the Central and Western Sectors no pillar site assessment has been conducted and the Parties have not enabled the Commission to meet the deadlines set out in the various schedules of work it has promulgated for those sectors.

16. Up to the time of, and immediately following, the delimitation of the border in April 2002, the Commission approached its mandate to demarcate the boundary as requiring it actually to emplace pillars at the turning points of the boundary. This assumed that the necessary cooperation of the Parties would be forthcoming and that UNMEE would not be prevented from providing essential assistance.

17. The Algiers Agreement, in establishing the Commission, is a constitutional instrument creating an international institution and conferring on it functions and powers. As such, its interpretation must be approached in the same way as international organisations have regularly approached the interpretation of their constituent instruments, that is, by way of the concept of institutional "effectiveness". Even though the governing text may not explicitly empower the organisation to act in a particular manner, international law authorises, indeed requires, the organisation, should it find it necessary, if it is to discharge all its functions effectively, to interpret its procedures in a constructive manner directed towards achieving the objective the Parties are deemed to have had in mind. The same is true of international judicial organs. (*Territorial Dispute (Libyan Arab Jamahiriya/Chad)* Judgment, *ICJ Reports* 1994, pp. 6, 25 and the cases there cited in support of "one of the fundamental principles of the interpretation of treaties, consistently upheld by international jurisprudence, namely, that of effectiveness. . . .")

18. In the present case, the manifest objective was to bring the border dispute to an end at the earliest possible date by means of the identification of a boundary established by the prescribed colonial treaties and applicable international law with as much precision as could be achieved in the circumstances and without deciding *ex aequo et bono*.

19. Having carefully surveyed the alternatives now available to the Commission and having studied anew the written and oral presentations made to it by the Parties, the Commission feels obliged to adopt another approach to effect the demarcation of the boundary.

20. Modern techniques of image processing and terrain modelling make it possible, in conjunction with the use of high resolution aerial photography, to demarcate the course of the boundary by

identifying the location of turning points (hereinafter called "boundary points") by both grid and geographical coordinates with a degree of accuracy that does not differ significantly from pillar site assessment and emplacement undertaken in the field. The Commission has therefore identified by these means the location of points for the emplacement of pillars as a physical manifestation of the boundary on the ground.[4] Although these techniques have been available for some time, the Commission has not resorted to them because the actual fixing of boundary pillars, if at all possible, was the demarcation method of first choice. However, it is only possible to demarcate a boundary by the fixing of boundary pillars with the full cooperation of both the States concerned. This has been completely lacking in the Central and Western Sectors and to some extent in the Eastern Sector.

21. In these circumstances, the Commission considers that the most practical way in which it can advance performance of its mandate is to provide the Parties with the list of boundary points that the Commission has identified by the techniques just mentioned along the whole length of the boundary. This list represents the locations at which, if the Commission were so enabled by the Parties, it would construct permanent pillars. This list and some explanatory comments are annexed to this Statement which is also accompanied by forty-five maps illustrating the boundary points. It may be noted that the boundary so illustrated does not differ significantly from the boundary identified in the Delimitation Decision. The areas of Tserona and Zalambessa have been clarified, as contemplated in the Delimitation Decision, by determining the environs of those two places and taking into account, insofar as relevant, manifest impracticabilities.

22. As the Commission evidently cannot remain in existence indefinitely, it proposes that the Parties should, over the next twelve months, terminating at the end of November 2007, consider their positions and seek to reach agreement on the emplacement of pillars. If, by the end of that period, the Parties have not by themselves reached the necessary agreement and proceeded significantly to implement it, or have not requested and enabled the Commission to resume its activity, the Commission hereby determines that the boundary will automatically stand as demarcated by the boundary points listed in the Annex hereto and that the mandate of the Commission can then be regarded as fulfilled. Until that time, however, it must be emphasised that the Commission remains in existence and its mandate to demarcate has not been discharged. Until such time as the boundary is finally demarcated, the Delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary.

23. In adopting this approach, the Commission has been guided by significant authority in State practice, following the use of the word "demarcation" by the United Nations Secretary-

[4] A comparable, though not identical, situation arose in the *Argentina-Chile Frontier Case* (1966) (38 *International Law Reports* 10), where aerial photography was used to identify points on the boundary. In the Dispositif of the Report of the Tribunal, the boundary was described in part as following the thalweg "of the Encuentro to Point A at the Confluence". The following is attached to the text at this point: "The location of Point A and subsequent Points is shown on the diagram and air photographs incorporated in this Report. The diagram is not intended as an authoritative map. It is only an index to the air photographs. These photographs are the sole authority for the exact location of the points." (p. 98).

General and United Nations Security Council when the Iraq-Kuwait border was "demarcated" in 1993.

24. Following Security Council resolution 687 (1991), the United Nations Secretary-General established the Iraq-Kuwait Boundary Demarcation Commission ("the IKBDC"). The terms of reference of the IKBDC were "to demarcate in geographical coordinates of latitude and longitude" the international boundary:

> "*The coordinates established by the [IKBDC] Commission will constitute the final demarcation of the international boundary* . . . . The demarcation of the boundary between Iraq and Kuwait will be accomplished by drawing upon appropriate material, including the map transmitted by Security Council document S/22412, and by utilizing appropriate technology." (Emphasis supplied.)[5]

25. The Security Council expressed support for the Secretary-General's report.[6] No doubt was expressed as to the legal acceptability of a "demarcation" by means of a list of coordinates. Although arrangements for the physical representation of the boundary were also made, this physical representation did not replace the demarcation in the form of geographic coordinates but simply represented it on the ground. In its Final Report, the IKBDC stated:

> ". . . [It] has simply carried out the technical task necessary to demarcate for the first time the precise coordinates of the international boundary reaffirmed in the 1963 Agreed Minutes. To this end, the coordinates established by the Commission, as reproduced in Section XIII below, constitute the final demarcation of the international boundary between Iraq and Kuwait."[7]

26. Moreover, the feasibility and acceptability of the use of coordinates alone as a means of identifying international boundaries is clearly affirmed by the manner in which the United Nations Convention on the Law of the Sea deals with the limits of maritime claims by States.

27. The fact that the present Commission began its demarcation activity in terms of the location and construction of fixed pillars does not mean that it is precluded from following another course when confronted by the lack of necessary cooperation by the Parties, nor, in the circumstances described, do the Commission's Rules of Procedure, Demarcation Directions and Demarcation Instructions, originally adopted on the assumption of full cooperation of both

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[5] U.N. doc. S/22558, Report of the Secretary-General regarding paragraph 3 of Security Council resolution 687 (1991), paras. 3-4, 2 May 1991.

[6] Final Report on the Demarcation of the International Boundary between the Republic of Iraq and the State of Kuwait by the United Nations Iraq-Kuwait Boundary Demarcation Commission, S/25811, para. 13; also reproduced in 94 *International Law Reports* 1.

[7] *Ibid.*, para. 112.

Parties, remain controlling. To the extent of any incompatibility between those procedural texts and the approach now to be adopted, the latter will prevail.

28. During the coming twelve months, the Commission will remain willing to provide assistance in emplacing the boundary pillars if the Parties jointly so request and provide assurances of cooperation and security.

(Signed) Sir Elihu **Lauterpacht** CBE QC
President of the Commission
27 November 2006

ERITREA-ETHIOPIA BOUNDARY COMMISSION

ANNEX TO THE COMMISSION'S STATEMENT OF 27 NOVEMBER 2006

LIST OF BOUNDARY POINTS AND COORDINATES

1. The boundary points listed below, and as illustrated on the accompanying 1:25,000 maps, fall into two categories: fixed points and movable points.[1]

2. The fixed boundary points are located on land. Each is identified by its grid and geographical coordinates accurate to one metre and is illustrated on the maps by the conventional sign of a small square enclosing a dot. Fixed points adjacent to rivers are located a short distance from the river bank so as to avoid the effects of flooding or river movements.

3. The movable boundary points represent the turning points of the boundary which fall within rivers. As the boundary in rivers follows the middle of the main channel and may move from time to time, these turning points cannot be fixed permanently. They are marked on the illustrative maps by small circles which indicate the location of these points at the time of the aerial photography.

4. These movable points are to be found at the confluence of two rivers, or at the intersection between the middle of the main channel of the river and the extension riverwards of the straight line between the nearest fixed boundary point and the next or preceding fixed boundary point.

5. The list of coordinates is presented in eight columns.

   Column 1 contains the numbers of the boundary points which are covered by each set of coordinates or are otherwise described.

   Column 2 contains the numbers of the points identified in Maps 10, 11 and 12 that illustrate the Delimitation Decision of 13 April 2002. These are referred to below simply as "Points".

   Columns 3 and 4 contain the Universal Transverse Mercator ("UTM") grid coordinates of each boundary point, not otherwise described, in the following projection:

Projection:	UTM Zone 37 extended eastward
Geodetic Datum:	Eritrea Ethiopia Boundary Datum 2002 (EEBD2002)
Longitude of Origin:	39° E
Latitude of Origin:	0° N

[1] A simplified map only for convenience of reference appears at the end of this Annex.

False Easting: 500,000m E
False Northing: 0m N
Unit of Measurement: Metre

Columns 5 and 6 contain the geographical coordinates in degrees of latitude and longitude in terms of the Commission's geodetic datum, EEBD2002.

Column 7 contains occasional descriptions of the location of the particular boundary point and an indication of the course of the boundary to the next boundary point.

Column 8 contains the number of the 1:25,000 map sheet on which the boundary point is located.

LIST OF BOUNDARY POINTS AND COORDINATES

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
1	1	Setit opposite Western Tripoint				Boundary continues along middle of main channel of Setit to BP2.	1
2	6	Confluence of Setit and Tomsa				Middle of main channel of Setit is connected to BP3 by straight-line extension of the line from BP4 to BP3.	8
3		341211	1568706	14°11'06.6"	37°31'42.8"	Short distance from north bank of Setit at its confluence with Tomsa. Boundary continues in a straight line to BP4.	8
4		382976	1646771	14°53'34.6"	37°54'43.5"	Short distance from south bank of Mareb at its confluence with Mai Ambessa. Boundary continues to middle of main channel of Mareb by straight-line extension of the line from BP3 to BP4.	13
5	9	Confluence of Mareb and Mai Ambessa				Boundary continues along middle of main channel of Mareb to BP6.	13

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
6	11	Confluence of Mareb and Belesa				Boundary continues along middle of main channel of Belesa to BP7.	20
7	12	Confluence of Belesa A and Belesa B				Boundary continues along middle of main channel of Belesa B to BP8.	20
8		Intersection of Belesa B and straight-line extension from BP9				Boundary turns inland to BP9.	21
9		518200	1619525	14°38'56.9"	39°10'08.4"	Boundary continues in a straight line to BP10.	21
10		518084	1619354	14°38'51.3"	39°10'04.6"	Boundary continues in a straight line to BP11.	21
11		517846	1619000	14°38'39.8"	39°09'56.6"	Boundary continues in a straight line to BP12.	21
12		517527	1618587	14°38'26.3"	39°09'45.9"	Bo ndary continues in a straight line to BP13.	21
13		517015	1617901	14°38'04.0"	39°09'28.8"	Boundary continues in a straight line to BP14.	21
14		516908	1617055	14°37'36.5"	39°09'25.2"	Boundary continues in a straight line to BP15.	21
15		516975	1616040	14°37'03.4"	39°09'27.4"	Boundary continues in a straight line to BP16.	21
16		517108	1615604	14°36'49.2"	39°09'31.9"	Boundary continues in a straight line to BP17.	21
17		516951	1615014	14°36'30.0"	39°09'26.6"	Boundary continues in a straight line to BP18.	21
18		518552	1613592	14°35'43.7"	39°10'20.1"	Boundary continues in a straight line to BP19.	21
19		518987	1613202	14°35'31.0"	39°10'34.6"	Boundary continues in a straight line to BP20.	21
20		519192	1612392	14°35'04.6"	39°10'41.4"	Boundary continues in a straight line to BP21.	21
21		520493	1611489	14°34'35.2"	39°11'24.9"	Boundary continues in a straight line to BP22.	21
22		521013	1611023	14°34'20.0"	39°11'42.3"	Boundary continues in a straight line to BP23.	21

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
23		522112	1610262	14°33'55.2"	39°12'19.0"	Boundary continues in a straight line to BP24.	21
24		523922	1610332	14°33'57.5"	39°13'19.5"	Boundary continues in a straight line to BP25.	21
25		525826	1610053	14°33'48.3"	39°14'23.1"	Boundary continues to middle of main channel of Belesa B by straight-line extension of the line from BP24 to BP25.	21
26		Intersection of Belesa B and straight-line extension from BP25				Boundary continues along middle of main channel of Belesa B to BP27.	21
27	14	Confluence of Belesa B and the tributary flowing from BP28				Boundary continues along middle of main channel of the tributary to BP28.	22
28	15	526864	1599914	14°28'18.3"	39°14'57.4"	Source of the tributary mentioned in BP27. Boundary continues in a straight line to BP29.	22
29	16	526401	1599206	14°27'55.2"	39°14'41.9"	Source of a tributary of Belesa A. Boundary continues along middle of main channel of the tributary to BP30.	22
30	17	Confluence of Belesa A and the tributary flowing from BP29				Boundary continues along middle of main channel of Belesa A to BP31.	22
31		Confluence of Belesa A and the tributary flowing from BP32				Boundary continues along middle of main channel of the tributary to BP32.	22
32		529176	1594815	14°25'32.2"	39°16'14.4"	Source of the tributary mentioned in BP31. Boundary continues in a straight line to BP33.	22
33		529308	1595256	14°25'46.6"	39°16'18.9"	Source of a tributary of Belesa B. Boundary continues along middle of main channel of the tributary to BP34.	22

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
34		530761	1597627	14°27'03.7"	39°17'07.5"	On edge of east bank of Belesa B opposite the tributary mentioned in BP33. Boundary continues in a straight line to BP35.	22
35		531658	1598412	14°27'29.2"	39°17'37.5"	Boundary continues in a straight line to BP36.	22
36		531846	1599274	14°27'57.2"	39°17'43.8"	Boundary continues in a straight line to BP37.	22
37		532474	1599718	14°28'11.7"	39°18'04.8"	Boundary continues in a straight line to BP38.	22
38		533846	1599802	14°28'14.3"	39°18'50.6"	Boundary continues in a straight line to BP39.	22
39		535023	1599814	14°28'14.7"	39°19'29.9"	Boundary continues in a straight line to BP40.	23
40		536051	1599537	14°28'05.6"	39°20'04.3"	Boundary continues in a straight line to BP41.	23
41		537336	1599320	14°27'58.5"	39°20'47.2"	Boundary continues in a straight line to BP42.	23
42		536950	1599806	14°28'14.3"	39°20'34.3"	Boundary continues in a straight line to BP43.	23
43		536902	1600399	14°28'33.6"	39°20'32.7"	Boundary continues in a straight line to BP44.	23
44		536398	1601176	14°28'58.9"	39°20'15.9"	Boundary continues in a straight line to BP45.	23
45		535430	1602185	14°29'31.8"	39°19'43.7"	Boundary continues in a straight line to BP46.	23
46		535413	1602382	14°29'38.2"	39°19'43.1"	Boundary continues in a straight line to BP47.	23
47		535942	1602200	14°29'32.3"	39°20'00.8"	Boundary continues in a straight line to BP48.	23
48		537041	1601817	14°29'19.8"	39°20'37.5"	Boundary continues in a straight line to BP49.	23
49		537273	1601661	14°29'14.7"	39°20'45.2"	Boundary continues in a straight line to BP50.	23
50		537455	1601546	14°29'10.9"	39°20'51.3"	Boundary continues in a straight line to BP51.	23
51		537983	1601199	14°28'59.6"	39°21'08.9"	Boundary continues in a straight line to BP52.	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
52		538798	1601208	14°28'59.9"	39°21'36.1"	Boundary continues in a straight line to BP53.	23
53		538528	1602662	14°29'47.2"	39°21'27.2"	Boundary continues in a straight line to BP54.	23
54		539482	1602526	14°29'42.7"	39°21'59.0"	Boundary continues in a straight line to BP55.	23
55		538493	1603778	14°30'23.5"	39°21'26.1"	Boundary continues in a straight line to BP56.	23
56		538352	1604031	14°30'31.8"	39°21'21.4"	Boundary continues in a straight line to BP57.	23
57		538843	1604759	14°30'55.4"	39°21'37.8"	Boundary continues in a straight line to BP58.	23
58		538562	1606101	14°31'39.1"	39°21'28.5"	Boundary continues in a straight line to BP59.	23
59		538888	1606728	14°31'59.5"	39°21'39.4"	Boundary continues in a straight line to BP60.	23
60		539045	1606574	14°31'54.5"	39°21'44.7"	Boundary continues in a straight line to BP61.	23
61		539279	1606370	14°31'47.8"	39°21'52.5"	Boundary continues in a straight line to BP62.	23
62		539719	1605996	14°31'35.7"	39°22'07.1"	Boundary continues in a straight line to BP63.	23
63		540025	1606770	14°32'00.8"	39°22'17.4"	Boundary continues in a straight line to BP64.	23
64		539924	1607174	14°32'14.0"	39°22'14.1"	Boundary continues in a straight line to BP65.	23
65		540196	1607425	14°32'22.2"	39°22'23.2"	Boundary continues in a straight line to BP66.	23
66		540494	1607249	14°32'16.4"	39°22'33.1"	Boundary continues in a straight line to BP67.	23
67		541100	1607527	14°32'25.4"	39°22'53.4"	Boundary continues in a straight line to BP68.	23
68		541268	1607568	14°32'26.8"	39°22'59.0"	Boundary continues in a straight line to BP69.	23
69		541651	1607389	14°32'20.9"	39°23'11.8"	Boundary continues in a straight line to BP70.	23
70		541693	1607200	14°32'14.7"	39°23'13.2"	Boundary continues in a straight line to BP71.	23
71		541790	1607153	14°32'13.2"	39°23'16.4"	Boundary continues in a straight line to BP72.	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
72		541889	1607223	14°32'15.5"	39°23'19.7"	Boundary continues in a straight line to BP73.	23
73		541925	1607352	14°32'19.7"	39°23'20.9"	Boundary continues in a straight line to BP74.	23
74		542174	1607363	14°32'20.0"	39°23'29.3"	Boundary continues in a straight line to BP75.	23
75		542429	1607514	14°32'24.9"	39°23'37.8"	Boundary continues in a straight line to BP76.	23
76		542497	1607743	14°32'32.4"	39°23'40.1"	Boundary continues in a straight line to BP77.	23
77		542848	1607862	14°32'36.2"	39°23'51.8"	Boundary continues in a straight line to BP78.	23
78		543091	1607563	14°32'26.5"	39°23'59.9"	Boundary continues in a straight line to BP79.	23
79		543456	1607159	14°32'13.3"	39°24'12.1"	Boundary continues in a straight line to BP80.	23
80		543594	1606743	14°31'59.8"	39°24'16.7"	Boundary continues in a straight line to BP81.	23
81		543567	1606395	14°31'48.4"	39°24'15.8"	Boundary continues in a straight line to BP82.	23
82		543757	1605931	14°31'33.3"	39°24'22.1"	Boundary continues in a straight line to BP83.	23
83		544165	1605991	14°31'35.3"	39°24'35.7"	Boundary continues in a straight line to BP84.	23
84		544782	1606036	14°31'36.7"	39°24'56.3"	Boundary continues in a straight line to BP85.	23
85		544975	1605998	14°31'35.4"	39°25'02.8"	Boundary continues in a straight line to BP86.	23
86		544890	1605456	14°31'17.8"	39°24'59.9"	Boundary continues in a straight line to BP87.	23
87		544881	1605184	14°31'08.9"	39°24'59.6"	Boundary continues in a straight line to BP88.	23
88		544981	1604979	14°31'02.3"	39°25'02.9"	Boundary continues in a straight line to BP89.	23
89		545071	1604867	14°30'58.6"	39°25'05.9"	Boundary continues in a straight line to BP90.	23
90		545163	1604573	14°30'49.0"	39°25'09.0"	Boundary continues in a straight line to BP91.	23
91		545599	1604717	14°30'53.7"	39°25'23.5"	Boundary continues in a straight line to BP92.	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
92		546708	1604848	14°30'57.9"	39°26'00.6"	Boundary continues in a straight line to BP93.	23
93		548228	1603658	14°30'19.1"	39°26'51.3"	Boundary continues in a straight line to BP94.	23
94		549224	1603811	14°30'24.0"	39°27'24.6"	Boundary continues in a straight line to BP95.	23
95		550285	1603913	14°30'27.2"	39°28'00.0"	Boundary continues in a straight line to BP96.	23
96		550952	1603096	14°30'00.6"	39°28'22.3"	Boundary continues in a straight line to BP97.	23
97		552040	1603343	14°30'08.6"	39°28'58.6"	Boundary continues in a straight line to BP98.	23
98		552740	1603656	14°30'18.7"	39°29'22.0"	Boundary continues in a straight line to BP99.	23
99		553191	1603340	14°30'08.4"	39°29'37.1"	Boundary continues in a straight line to BP100.	23
100		553273	1602765	14°29'49.7"	39°29'39.8"	Boundary continues in a straight line to BP101.	23
101		553334	1602011	14°29'25.1"	39°29'41.8"	Boundary continues in a straight line to BP102.	23
102		553325	1601557	14°29'10.4"	39°29'41.4"	Boundary continues in a straight line to BP103.	23
103		553435	1601320	14°29'02.6"	39°29'45.1"	Boundary continues to middle of main channel of Muna/Berbero Gado by straight-line extension of the line from BP102 to BP103.	23
104		Intersection of Muna/Berbero Gado and straight-line extension from BP103				Boundary continues along middle of main channel of Muna/Berbero Gado to BP105.	23
105	21	Confluence of Muna/Berbero Gado and Enda Dashim				Boundary continues along middle of main channel of Enda Dashim to BP106.	24
106	22	Confluence of Enda Dashim and the tributary flowing from BP107				Boundary continues upstream along middle of main channel of the tributary to BP107.	24

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
107	24	557018	1610448	14°33'59.5"	39°31'45.5"	Source of the tributary mentioned in BP106. Boundary continues in a straight line to BP108.	24
108	25	557309	1612351	14°35'01.4"	39°31'55.4"	Source of a tributary of Endeli. Boundary continues along middle of main channel of the tributary to BP109.	24
109	26	Confluence of Endeli and the tributary flowing from BP108				Boundary continues along middle of main channel of Endeli/Ragali to BP110.	24
110		Middle of main channel of Ragali nearest BP111				Boundary continues to BP111 by the shortest line.	28
111	30	623635	1607676	14°32'21.3"	40°08'51.1"	Boundary continues in a straight line to BP112.	28
112	31	630815	1590835	14°23'12.0"	40°12'48.0"	Point at which the boundary under the 1900 Treaty reaches the Salt Lake and where the boundary under the 1908 Treaty starts. Boundary continues in a straight line to BP113.	29
113		635777	1593605	14°24'41.3"	40°15'34.2"	Boundary continues in a straight line to BP114.	29
114		648180	1587363	14°21'15.9"	40°22'27.0"	Boundary continues in a straight line to BP115.	30
115		656580	1582220	14°18'26.8"	40°27'06.3"	Boundary continues in a straight line to BP116.	30
116		669700	1578050	14°16'08.4"	40°34'23.2"	Boundary continues in a straight line to BP117.	31
117		682070	1573240	14°13'29.0"	40°41'14.7"	Boundary continues in a straight line to BP118.	31
118		695208	1567549	14°10'20.7"	40°48'31.4"	Boundary continues in a straight line to BP119.	32
119		702195	1563439	14°08'05.2"	40°52'23.3"	Boundary continues in a straight line to BP120.	33
120		709697	1557620	14°04'53.9"	40°56'31.8"	Boundary continues in a straight line to BP121.	33

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
121		715424	1550343	14°00'55.6"	40°59'40.6"	Boundary continues in a straight line to BP122.	33
122		723722	1536679	13°53'28.8"	41°04'13.1"	Boundary continues in a straight line to BP123.	34
123		728700	1529698	13°49'40.3"	41°06'56.8"	Boundary continues in a straight line to BP124.	35
124		734656	1518798	13°43'44.0"	41°10'11.8"	Boundary continues in a straight line to BP125.	35
125		737647	1515754	13°42'04.1"	41°11'50.4"	Boundary continues in a straight line to BP126.	36
126		743336	1509458	13°38'37.6"	41°14'57.7"	Boundary continues in a straight line to BP127.	36
127		749681	1502409	13°34'46.4"	41°18'26.5"	Boundary continues in a straight line to BP128.	36
128		759980	1493976	13°30'08.9"	41°24'06.2"	Boundary continues in a straight line to BP129.	37
129		764903	1492478	13°29'18.6"	41°26'49.3"	Boundary continues in a straight line to BP130.	37
130		771157	1487947	13°26'49.2"	41°30'15.6"	Boundary continues in a straight line to BP131.	38
131		786337	1481301	13°23'07.9"	41°38'37.6"	Boundary continues in a straight line to BP132.	38
132		788954	1474505	13°19'26.0"	41°40'02.1"	Boundary continues in a straight line to BP133.	39
133		794837	1469208	13°16'31.7"	41°43'15.5"	Boundary continues in a straight line to BP134.	39
134		796468	1464926	13°14'11.9"	41°44'08.1"	Boundary continues in a straight line to BP135.	39
135		805190	1456707	13°09'41.5"	41°48'54.5"	Boundary continues in a straight line to BP136.	40
136		813540	1447044	13°04'24.3"	41°53'27.9"	Boundary continues in a straight line to BP137.	40
137		817638	1440008	13°00'34.0"	41°55'41.1"	Boundary continues in a straight line to BP138.	41
138		821900	1430658	12°55'28.4"	41°57'58.8"	Boundary continues in a straight line to BP139.	41

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
139		828570	1424411	12°52'02.8"	42°01'37.4"	Boundary continues in a straight line to BP140.	42
140		831844	1417116	12°48'04.4"	42°03'23.0"	Boundary continues in a straight line to BP141.	42
141		840086	1414588	12°46'39.0"	42°07'55.0"	Boundary continues in a straight line to BP142.	43
142		846722	1413740	12°46'08.8"	42°11'34.4"	Boundary continues in a straight line to BP143.	43
143		849493	1413319	12°45'54.0"	42°13'06.0"	Boundary continues in a straight line to BP144.	43
144	40	856238	1399036	12°38'07.1"	42°16'43.4"	Between the two checkpoints of Eritrea and Ethiopia at Bure. Boundary continues in a straight line to BP145.	44
145		861776	1391941	12°34'14.2"	42°19'43.7"	Boundary continues in a straight line to BP146.	44
146	41	870133	1380752	12°28'07.1"	42°24'15.4"	Summit of Mt. Musa'ali, Primary Monument No. 90 of the Ethiopia-Djibouti boundary.	45

COMMENTS

A. The Western Terminus

6. This Point is described in paragraph 8.1, A(1) of the Dispositif of the Delimitation Decision as follows: "The boundary begins at the tripoint between Eritrea, Ethiopia and the Sudan and then runs into the centre of the Setit opposite that point (Point 1)". This determination has not been questioned by either Party.

7. In investigating the matter, the Commission's experts were not able to see any previously established monument marking the tripoint between Eritrea, Ethiopia and the Sudan. In these circumstances, the Commission adheres to the description of Point 1 (designated as Point 1 in the Delimitation Decision) and which it now designates as BP1 (see Map No. 1).

B. The Line from the Setit to the Mareb (from Point 6 to Point 9 in the Delimitation Decision)

8. The Delimitation Decision determined that a straight line runs from the Setit starting at Point 6 (the confluence of the Setit and the Tomsa) to Point 9 (the confluence of the Mareb and the Mai Ambessa). These Points are now joined by a straight line drawn between them on land. The only changes that may occur in the future are the minor ones at the northern and southern termini of that line if there are movements in the middle of the main channels of the two rivers. Point 6 is now BP2 and its fixed point on land is BP3 (see Map No. 8). Point 9 is now BP5 and its fixed point on land is BP4 (see Map No. 13).

C. Tserona and Zalambessa

9. The Commission directed the demarcation team to take full account of the proposed boundaries in the Parties' comments on Tserona and Zalambessa.[2] As similar considerations affect the demarcation line around both places, these two items are dealt with together.

1. Tserona

10. The Dispositif of the Delimitation Decision, paragraph 8.1, B. (iv), provides in part that the boundary should "leave Tserona and its environs to Eritrea. The boundary runs round Tserona at a distance of approximately one kilometre from its current outer edge, in a manner to be determined more precisely during the demarcation".

11. The Commission has considered the submissions of the Parties and has noted in particular the comment by Ethiopia that the "outer edge and environs of Tserona should be determined using precisely the same principles as are used for the determination" of the outer edge and environs of Zalambessa[3] (see paragraph 12 below). Eritrea expressed the same wish.[4] The Commission has identified these environs by a line that leaves the Belesa B at BP8 and proceeds by a series of straight lines to BP26 where it returns to the Belesa B (see Map No. 21). BP8 is located at the intersection of the middle of the main channel of the Belesa B and the straight line extension of the line from BP10 to BP9. BP26 is located at the intersection of the middle of the main channel of the Belesa B and the straight line extension of the line from BP24 to BP25. Thence, the boundary follows the Belesa B southwards to BP27 where it leaves that river to run south-westwards towards BP28 (see Map No. 22).

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[2] Demarcation Instructions, 22 August 2003, p. 1, para. 1.

[3] Submission by the Federal Democratic Republic of Ethiopia, 24 January 2003, Comments Pursuant to the December 2000 Agreement, the Commission's Rules of Procedure, the Commission's Demarcation Directions and Instructions provided at the Boundary Commission's Meeting on 6 and 7 November 2002, p. 65, para. 1.181.

[4] The State of Eritrea's Comments on the Preliminary Orthophoto Maps; Boundaries within Rivers; The Boundary at Tserona, Zalambessa and Bure; and the Eastern Sector, 24 January 2003, p. 14.

2. Zalambessa

12. The Commission invited Eritrea to comment on Ethiopia's proposed boundary for the town of Zalambessa and to submit its own proposal. Ethiopia identified a boundary which was influenced by physical obstacles to the use of certain lands around the environs of Zalambessa. Eritrea asked that whatever standard or procedures applied to Zalambessa should also be applied to Tserona.[5] Eritrea also submitted that "Any alterations should, additionally, be balanced so that gains to one party are equalled by gains to the other."[6] There is a close similarity between the Eritrean and Ethiopian proposals for the boundary around Zalambessa except that the Ethiopian proposal also includes the plateau land to the east.

13. In demarcating the boundary around Zalambessa, the Commission has borne in mind the views of the Parties, the nature of its environs and the extent of manifest impracticability in parts of the area. The boundary therefore continues from BP41 through BP42 to BP103 where it meets the Muna/Berbero Gado at BP104 (see Map No. 23).

D. The boundary between Points 15 and 16

14. Paragraph 8.1. B.(v) of the Dispositif provides in part that the boundary continues to the source, at Point 15, of an unnamed tributary: "From that point it crosses the watershed by a straight line to the source of a tributary of the Belesa A at Point 16 . . . ."

15. The Commission has determined that "References to the headwaters or sources of rivers or streams mean the highest point at which the flow of water can be identified or, if the stream bed has become permanently dry, then the highest point at which the stream bed can be identified".[7] Points 15 and 16 are now identified as BP28 and BP29 (see Map No. 22). The boundary runs as a straight line between these two points. If either of these points is found not to lie exactly at the source of the relevant tributary, it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.

E. The Eritrean claim line (Points 17 to 18 of the Dispositif)

16. Paragraph 8.1. B.(v) of the Dispositif provides in part that, from Point 17, the boundary "continues up the Belesa A to follow the Eritrean claim line to Point 18 so as to leave Fort Cadorna and its environs within Eritrea. The Eritrean claim line is more precisely depicted on the 1:100,000 Soviet map referred to by Eritrea in its final submission on 20 December 2001. Point 18 lies 100 metres west of the centre of the road running from Adigrat to Zalambessa."

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[5] *Id.*

[6] The State of Eritrea's Comments on the Eritrean-Ethiopia Boundary in the Proximity of Tserona and Zalambessa and on the Specific Provisions of Ethiopia's Comments of 24 January 2003, 15 April 2003, p. 5.

[7] Demarcation Directions, 8 July 2002 (as revised in November 2002, March and July 2003), para. 14D.

17. The Eritrean claim line is now identified as BP30 to BP41. Regarding BPs 32 and 33, if either of these points is found not to lie exactly at the source of the relevant tributary, it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.

18. In its Demarcation Instructions of 22 August 2003, the Commission instructed that pillar sites should be "located within approximately 200 metres of the coordinates extracted from the Soviet map".[8] The positions of BPs 35-41 (see Maps Nos. 22 and 23) have been determined on this basis.

F. Boundary between Points 24 & 25

19. See paragraph 15 above. Points 24 and 25 are now marked as the highest points at which the streambed can be identified. The boundary runs as a straight line between them. These points are now BPs 107 and 108 (see Map No. 24). If either of these points is found not to lie exactly at the source of the relevant tributary it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.

G. Points 29, 30 and 31

20. The Dispositif provides in Paragraph 8.1. B. (xii) that, "From Point 28, the line continues down the Muna/Endeli/Ragali to Point 29, northwest of the Salt Lake, and thence by straight lines to Points 30 and 31, at which last point this sector [i.e. the Central Sector] of the boundary terminates."

21. The Commission has found that maintenance of Point 29 as a fixed point could lead in the event of a change in the main stream of the river to depriving one or other Party of access to the river's water. The Commission has therefore decided that Point 29 must be abandoned and that, consistent with the principles enunciated in the Delimitation Decision, the course of the boundary in this area shall follow the middle of the main channel of the Ragali River until it reaches a point nearest to BP111 (Point 30) which is the point at which equal access to the river's water is no longer significant. The middle of the main channel of the Ragali is linked to BP111 by the shortest line. A straight line is then drawn south-eastwards to BP112 (Point 31).

22. BP112 is where the Ragali River reaches the Salt Lake. Because of ground conditions, it has not been possible to determine the exact location of this Point either from field inspection carried out during pillar site assessment of the Eastern Sector or from the imagery of the aerial photography. It has therefore been necessary to estimate where the Ragali River reaches the Salt Lake and to identify BP112 accordingly.

[8] Demarcation Instructions, 22 August 2003, p. 2, para. 11.

H. The Eastern Sector

23. The Delimitation Decision described this boundary as a series of straight lines connecting Point 31 to Point 41 at the boundary with Djibouti. This line was to serve as the basis for the demarcation, leaving open the possibility at that stage of "adapting it to the nature and variation of the terrain" as contemplated in Article II of the 1908 Treaty.[9] Demarcation Instructions for the identification of pillar sites in this Sector included the requirement that maintenance of an area balance between the lines joining the Points finally chosen compared to the original delimitation line of 13 April 2002 should be in the order of three percent. These Instructions also required the determination of the mid-point between the Eritrean and Ethiopian customs posts at Bure and the reinstatement of the original pillar emplacement on Musa'ali at Point 41.

24. The Commission's field staff was able to undertake the selection of all pillar sites in the Eastern Sector in early 2003. The sites chosen were based, where possible, on the submissions of the Parties in their 24 January 2003 memoranda and were assessed according to the requirements set out by the Commission in the Demarcation Instructions of 21 March 2003. In May 2003, the Commission submitted an initial report of this work to the Parties for comment. The Parties' comments were received on 11 June 2003 and indicated acceptance of the proposals in principle. The Demarcation Team, after considering these comments, made further adjustments, and presented a final report to the Commission in August 2003. This report set out the coordinates as surveyed of all boundary positions in the Eastern Sector and achieved an almost exact area balance. The position of the mid-point between the Eritrean and Ethiopian customs posts at Bure was identified. At Musa'ali, the remains of the old monument were located and its position was fixed.

25. The boundary in the Eastern Sector is therefore now defined as passing through the boundary points from BP112 to BP146.

I. The boundary in rivers

26. The Commission has determined in the Demarcation Directions that, "Unless the Commission should decide otherwise after receiving a request from a Party that the boundary in a river requires demarcation, the Commission considers that the identification of a river as a boundary should normally suffice without actual demarcation therein, save as regards the identification of confluences, turning points that may give rise to doubts, and headwaters or sources."[10] The Demarcation Instructions provide that the river "boundary is in the middle of the main channel (the channel of greatest volume) and will move in accordance with any change in position of the middle of the main channel."[11]

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[9] Delimitation Decision, 13 April 2002, p. 93, para. 6.34.

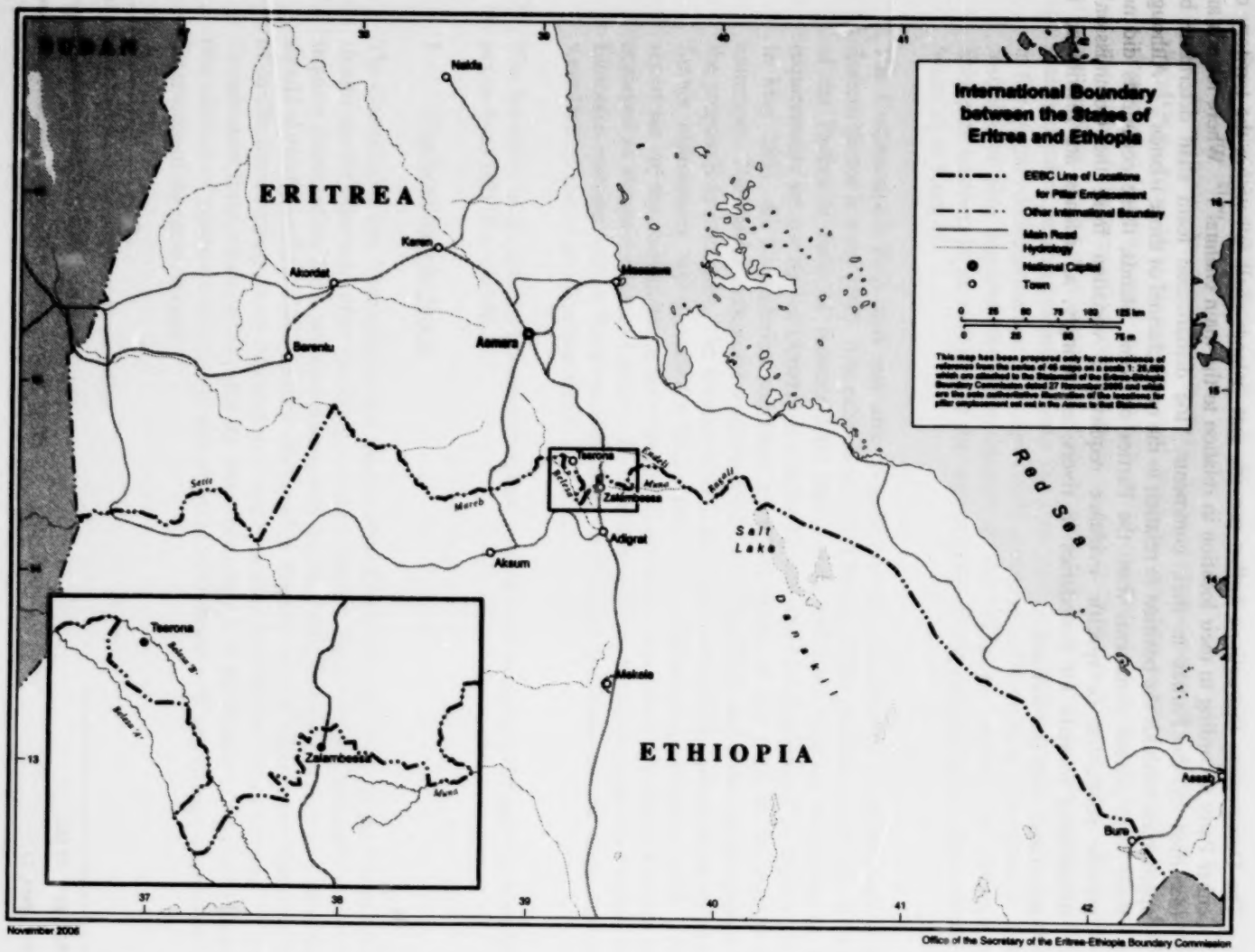
[10] Demarcation Directions, July 2003 revision, para. 14B.

[11] Demarcation Instructions, 22 August 2003, p. 3, para. 20 (b).

27. The Demarcation Instructions further provide that "islands shall fall within the territory of either Party according to their location in relation to the main channel".[12] Where islands are identified by the Parties in their comments, "the demarcation team shall determine by appropriate methods the position in relation to the main channel of those islands".[13] Although there were general comments from the Parties on some islands, these comments did not provide substantial or specific evidence requiring a variation from the Commission's delimitation formula for boundaries in rivers; accordingly, all islands are distributed in accordance with this formula.

[12] *Ibid.*, para. 20 (d).

[13] *Ibid.*, para. 21.



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